AMENDMENTS TO THE DRAWINGS

The attached sheet(s) of drawings includes changes to Figure 3 to change Step "S5" to Step "S9".

Attachment: Replacement sheet

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REMARKS

Claims 1-2, 5, 9, 11-16 and 18 are pending in this application after this amendment. Claims 1 and 18 are independent. Claims 3-4, 6-8, 10 and 17 are canceled without prejudice or disclaimer to the subject matter included therein. In light of the amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended the claims to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner objected to the drawings; rejected claim 17 under 35 U.S.C. §101; rejected claims 1-4 and 13-18 under 35 U.S.C. §102(b) as being anticipated by Kowald (U.S. Patent Application Publication No. 2003/0002715); rejected claims 5-6 and 9-10 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Bhatt (U.S. Patent Application Publication No. 2002/0118883); rejected claims 7-8 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Florance et al. (U.S. Patent Application No. 2002/0065739) and further in view of Kowald; rejected claim 11 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Kowald; rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Kowald and further in view of Sano (USP 6,079,885); and rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Tsukagoshi et al. (USP 5,848,217). Applicants respectfully traverse these rejections.

Drawing Objections

The Examiner objected to the drawings based on a typographical error. By this amendment, Applicants have submitted an amended Fig. 3 correcting the typographical error. Based on this amendment, it is respectfully requested that the outstanding objection be withdrawn.

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Claim Rejections – 35 U.S.C. §101

By this amendment, Applicants have canceled claim 17. As such, it is respectfully requested that the outstanding rejection be withdrawn.

Prior Art Rejections

By this amendment, Applicants have amended claim 1 with the elements of claims 3 and 7. In support of the Examiner's rejection of claim 7, the Examiner asserts that Florance et al. teaches a selection condition setting means setting the selection conditions to be stricter for similar document groups having a greater number of documents included therein, citing to paragraphs [0076] and [0077]. Applicants respectfully disagree with the Examiner's characterization of this reference.

Claim 1, as amended, recites, *inter alia*, a photographic image selecting apparatus including a qualified photographic image extracting means equipped with a selection condition setting means, and a selection condition setting means setting the selection conditions for each similar photographic image group, so as to be stricter for similar photographic image groups having a greater number of photographic images included therein.

In contrast, Florance et al. discloses a system and method for collection, distribution and use of information in connection with commercial real estate. At paragraphs [0076] – [0077], Florance et al. discloses as follows:

> [0076] The software returns focused search results through which the user can browse as the user normally would.

> [0077] The user may want to narrow the scope of the user's search if the search results contain too many documents. Or, after reviewing the user's search results, the user may want expand the scope of the user's search. The user can make these adjustments by modifying the user's original search request to include additional connectors and/or search terms--all without losing the user's original search results. Narrowing the scope of

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search results is described herein as running a query on a query or running a negative search query.

As can be seen from the above, Florance et al. merely discloses that a user can modify the search request to narrow the scope of search results when the search results contain too many documents. However, these teachings are insufficient to teach or suggest and a selection condition setting means **setting the selection conditions for each similar photographic image group,** so as to be stricter for similar photographic image groups having a greater number of photographic images included therein.

As such, Applicants respectfully submit that Florance et al. fails to cure the deficiencies of the teachings of Kowald. Thus, the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest all of the claim elements. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2, 5, 9, and 11-16 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. Further claim 18 includes elements similar to those discussed above with regard to claim 1 and thus claim 18, together with claims dependent thereon, are allowable for the reasons set forth above with regard to claim 1.

In addition, Applicants respectfully submit that claims 9, 13, and 16 are separately patentable and offer the following.

In support of the Examiner's rejection of claim 9, the Examiner relies on the teachings of Bhatt to cure the deficiencies of the teachings of Kowald, relying on paragraph [0032]. Applicants respectfully disagree with the Examiner's characterization of this reference.

The invention of claim 9 requires the selection condition setting means setting the selection conditions according to a specified number of qualified photographic images to be extracted from each of the similar photographic image groups.

In contrast, the disclosure of Bhatt is directed to a classifier-based enhancement of digital images. In paragraph [0032] Bhatt merely discloses that element 65 tunes the image parameters according to the **file size**. However, these teachings are insufficient to teach or suggest setting the selection conditions according to a **number of images**. As such, Applicants respectfully submit that Bhatt fails to cure the deficiencies of the teachings of Kowald and thus claim 9 is patentable over the references as cited. It is respectfully requested that the outstanding rejection be withdrawn.

In support of the Examiner's rejection of claim 13, the Examiner asserts that Kowald discloses all of the elements recited in the claim, including differentiating and processing means performing processes wherein the qualified photographic images and the other photographic images are differentiated, then recorded in a recording medium, relying on Fig. 5, elements 526, 528 and 529, Fig. 6, element 616, and paragraph [0047]. Applicants respectfully disagree with the Examiner's characterization of this reference.

The invention of claim 13 requires the differentiating and processing means performing processes wherein the qualified photographic images and the other photographic images are differentiated, then recorded in a recording medium.

In contrast, the disclosure of Kowald is directed to a visual language classification system. In paragraph [0036] Kowald discloses as follows:

> [0036] Where appropriate, the capture data 504 recorded by the camera 504 is transferred 508 to a mass storage arrangement 510, typically associated with a computing system, whereupon the images are made available via an interconnection 520 to a visual language classification system 522. The classification system 508 generates metadata which is configured for convenient editing by the film maker. The visual language classification system 522 outputs classification data 524, configured as further metadata, which is associated with each image and which may be stored within a mass storage unit 526. The classification data 524 in the store 526 may be output to an editing module 514 which, through accessing the image data via a connection 512 to the store 510, provides for the formation of an edited sequence 528 which may be output to a presentation unit 516 for display via a display unit 518, such as a television display, or storage in a mass storage device 519. In some implementations, the stores 510, 526 and 519 may be integrally formed.

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Further, at paragraph [0047], Kowald discloses as follows:

> [0047] With the database 526 formed, the user may then commence editing the selected images. This is done by invoking an editing system 514 which extracts the appropriate images or sequence of images from the store 510. Using the information contained within the metadata store 526, the user may conveniently edit particular images. The database information may be used to define fade-in and fade-out points, images where a change in zoom is desired, points of interest within individual images which can represent focal centres for zooming operations either or both as source or target, amongst many others.

As can be seen from the above disclosure, Kowald merely discloses element 519 storing the images extracted by the editing system 514. However, these teachings are insufficient to teach or suggest setting **the qualified photographic images and the other photographic images are differentiated** and then recorded in a recording medium. As such, Applicants respectfully submit that Kowald fails to teach or suggest all of the elements recited in claim 13 and thus claim 13 is not anticipated by Kowald. It is respectfully requested that the outstanding rejection be withdrawn.

In support of the Examiner's rejection of claim 16, the Examiner relies on element 518 to teach both the classification means and the differentiating and processing means recited in claim 16 and claim 1. Applicant respectfully submits that this reference of the single element to teach the two recited means is improper. It is respectfully requested that the outstanding rejection be withdrawn.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 29, 2007

Respectfully submitted,

By

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Attachments

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